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*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

CONSTANCE BENTON, Special Administrator of the Estate of ROBERT BARCONIA, JR., deceased,	)	CASE NO. 2:23-cv-01034-GMN-BNW
	)	
Plaintiff,	)	<b>STIPULATION AND ORDER TO</b>
	)	<b>EXTEND DISCOVERY PLAN AND</b>
v.	)	<b>SCHEDULING ORDER</b>
	)	<b>(FIFTH REQUEST)</b>
WALMART INC., a Delaware Corporation d/b/a	)	
WALMART SUPERCENTER #3728; ROE	)	
VENDOR CORPORATION; ROE SECURITY	)	
COMPANY, DOES I-X and ROE CORPORATIONS	)	
II-X, inclusive,	)	
	)	
Defendants.	)	

COME NOW Plaintiff, CONSTANCE BENTON, Special Administrator of the Estate of ROBERT BARCONIA, JR. ("PLAINTIFF"), Defendant, WALMART, INC. d/b/a WALMART SUPERCENTER #3728 ("WALMART"), and Defendant BROSANAN RISK CONSULTANTS, LTD. ("BROSANAN"), by and through their respective counsel, and hereby submit this Stipulation and Order to Extend Discovery Plan and Scheduling Order (Fifth Request) pursuant to LR IA 6-1 and LR 26-3 as follows:

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## I.

**PROCEDURAL HISTORY**

On May 25, 2023, Plaintiff Constance Benton, as Special Administrator of the Estate of Robert Barconia, Jr., filed her Complaint against Defendant Walmart in the Eighth Judicial District Court for Clark County, Nevada. On June 16, 2023, Defendant filed its Answer to Plaintiff's Complaint. On July 5, 2023, Defendant filed its Petition for Removal and removed the matter to this Court based on diversity jurisdiction. On July 18, 2023, Defendant filed its Statement Regarding Removal. On August 3, 2023, Plaintiff filed her Motion to Remand to State Court, which Defendant opposed on August 17, 2023, and the Court denied on October 13, 2023. Meanwhile, the parties participated in the Fed. R. Civ. P. 26(f) conference on August 31, 2023, and their proposed Joint Discovery Plan and Scheduling Order was entered by this Court on September 6, 2023. That same day, the Court also approved the parties' Stipulated Protective Order regarding disclosure of Confidential Information. On October 26, 2023, the parties, along with the City of North Las Vegas, submitted their proposed Stipulative Protective Order, which the Court approved on October 31, 2023.

Plaintiff submitted her Stipulation and Order to Amend the Complaint on February 27, 2024 and the court approved the Stipulation on February 28, 2024. Plaintiff filed her First Amended Complaint on March 1, 2024. Defendant Brosnan Risk Consultants, Ltd. filed its Answer to First Amended Complaint on March 25, 2024.

On November 28, 2023, the parties stipulated to extend the Discovery Plan and filed their Stipulation and Order to Extend Discovery Plan and Scheduling Order (First request) on November 29, 2023, which this Court approved on December 1, 2023.

On January 31, 2024, the parties stipulated to extend the Discovery Plan and filed their Stipulation and Order to Extend Discovery Plan and Scheduling Order (Second request) on January 31, 2024, which this Court approved on February 2, 2024.

On March 22, 2024, newly added Defendant Brosnan Risk Consultants, LTD. filed its Answer in the case. Thereafter, on May 9, 2024, the Court approved and entered the parties' Amended Discovery Plan.

1 On or about July 29, 2024, the parties stipulated to extend the Discovery Plan and filed their  
2 Stipulation and Order to Extend Discovery Plan and Scheduling Order (third request) on July 29,  
3 2024, which the Court approved on July 30, 2024.

4 On or about October 17, 2024, the parties stipulated to extend the Discovery Plan and filed  
5 their Stipulation and Order to Extend Discovery Plan and Scheduling Order (fourth request) on  
6 October 17, 2024, which the Court approved on October 18, 2024.

7 **I.**

8 **DISCOVERY COMPLETED**

9 **To date, the parties have completed the following discovery:**

- 10 1. Plaintiff's FRCP 26 Initial Disclosure, served September 8, 2023;
- 11 2. Defendant Walmart's FRCP 26 Initial Disclosure, served September 15, 2023;
- 12 3. Defendant Walmart's First Supplement to FRCP 26 Initial Disclosure, served  
13 December 28, 2023;
- 14 4. Defendant Walmart's Second Supplement to FRCP 26 Initial Disclosure, served  
15 December 28, 2023;
- 16 5. Defendant Brosnan's FRCP 26 Initial Disclosure, served April 29, 2024;
- 17 6. Defendant Brosnan's First Supplement to FRCP 26 Initial Disclosure, served  
18 October 17, 2024;
- 19 7. Plaintiff's First Set of Request for Production to Defendant Brosnan, served  
20 September 17, 2024;
- 21 8. Defendant Brosnan's Responses to Plaintiff's First Set of Request for Production,  
22 served October 17, 2024;
- 23 9. Plaintiff's First Set of Request for Interrogatories to Defendant Brosnan, served  
24 September 17, 2024;
- 25 10. Plaintiff's First Set of Request for Production to Defendant Walmart, served October  
26 6, 2023;
- 27 11. Defendant Walmart's Responses to Plaintiff's First Set of Request for Production,  
28 served December 28, 2023;

1 12. Plaintiff's First Set of Request for Interrogatories to Defendant Walmart, served  
2 October 6, 2023;

3 13. Defendant Walmart's Responses to Plaintiff's First Set of Interrogatories, served  
4 January 4, 2024;

5 14. Plaintiff's Notice of Intent to Serve Subpoena Duces Tecum to North Las Vegas  
6 Police Department, served October 6, 2023;

7 15. Defendant Brosnan's Second Supplement to FRCP 26 Initial Disclosure, served  
8 October 21, 2024.

9 **III.**

10 **DISCOVERY REMAINING TO BE COMPLETED**

11 Discovery to be completed includes:

- 12 1. Deposition of Plaintiff;
- 13 2. Deposition of Defendants' employees;
- 14 3. Deposition of FRCP 30(b)(6) witnesses;
- 15 4. Deposition of percipient witnesses;
- 16 5. Initial Expert disclosures;
- 17 6. Rebuttal Expert disclosures;
- 18 7. Deposition of Experts; and
- 19 8. Additional discovery as needed.

20 Good cause exists to continue the current Discovery Plan and Scheduling Order. The parties  
21 are diligently working to move the case forward. However, the third-party assailant in this matter  
22 recently accepted a plea deal and is awaiting sentencing (set for December 4<sup>th</sup>, 2024). The parties  
23 are only now able to obtain information from the homicide investigation that will be crucial to the  
24 claims and defenses in this matter. As such, the additional time is necessary to obtain this  
25 information and provide to the various experts retained in this matter to further any opinions  
26 reached.

27 Therefore, the Parties have agreed to a thirty (30) day extension to allow the Parties to  
28 complete the necessary discovery. Specifically, the Parties believe this extension is necessary

1 because the parties will need to schedule the remaining depositions, including Plaintiff's deposition,  
2 conduct expert discovery, and serve additional written discovery.

3 No trial has been set on this matter and neither party will be prejudiced by the requested  
4 extension.

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6 **IV.**

7 **PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE**

	<b>Current Date</b>	<b>Proposed Date</b>
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Discovery Cut-Off: 02/28/2025 **03/31/2025**

Motions to Amend Pleadings/Add Parties 12/02/2024 **01/03/2025**

Initial Expert Disclosures: 12/02/2024 **01/03/2025**

Rebuttal Expert Disclosures: 01/01/2025 **01/31/2025**

Dispositive Motions: 03/31/2025 **04/30/2025**

Joint Pretrial Order 04/30/2025 **05/30/2025**

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1 No trial date will be impacted by the extension as no such trial date has been set. The parties  
2 submit that the reasons set forth above constitute good cause for the requested extension.

3 DATED this 26<sup>th</sup> day of November 2024.

4 VEGAS VALLEY INJURY LAW

OLSON CANNON & GORMLEY

5 */s/ Kristopher T. Zeppenfeld*

*/s/ Max E. Corrick, II*

6  
7 KRISTOPHER T. ZEPPENFELD, ESQ.  
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9 *Attorneys for Plaintiff*

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Las Vegas, NV 89129  
*Attorney for Brosnan Risk Consultants, Ltd.*

10 SKANE MILLS LLP

11 */s/ Sarai L. Thornton*

12 SARAI L. THORNTON, ESQ. (#11067)  
1120 Town Center Drive, Suite 200  
13 Las Vegas, Nevada 89144  
14 *Attorneys for, Walmart Inc. dba Walmart*  
15 *Supercenter #3728*

16 **IT IS SO ORDERED**

17 **DATED:** 10:15 am, November 27, 2024

18 

19 **BRENDA WEKSLER**  
20 **UNITED STATES MAGISTRATE JUDGE**  
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Tuesday, November 26, 2024 at 14:07:16 Pacific Standard Time

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**Subject:** Re: [External Sender] Benton/Barconia adv. Walmart and Brosnan  
**Date:** Tuesday, November 26, 2024 at 2:06:11 PM Pacific Standard Time  
**From:** Sarai L. Thornton  
**To:** Kris T. Zeppenfeld, Esq.  
**CC:** Max Corrick, Elizabeth Spaur, Jane Hollingsworth, Yesenia Lutes, Allison Hardy, Jennifer Reynhout  
**Attachments:** image001.png, image002.png

You may affix my e-signature.

Thanks,

Sarai  
Sent from my iPhone

On Nov 26, 2024, at 12:03PM, Kris T. Zeppenfeld, Esq. <[kz@vegasvalleylaw.com](mailto:kz@vegasvalleylaw.com)> wrote:

Counsel,

Attached is the proposed SAO we discussed. Please let us know if we can affix your e-signatures and submit. Otherwise, let us know if you have any proposed revisions.  
Thank you,

Kris

<[image002.png](#)>

**Vegas Valley Injury Law**  
**Kris T. Zeppenfeld, Esq.**  
**Executive Shareholder**

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**From:** Max Corrick <[mcorrick@ocgattorneys.com](mailto:mcorrick@ocgattorneys.com)>

**Date:** Monday, November 25, 2024 at 12:05 PM

**To:** Kris T. Zeppenfeld, Esq. <[kz@vegasvalleylaw.com](mailto:kz@vegasvalleylaw.com)>, Sarai L. Thornton <[sthornton@skanemills.com](mailto:sthornton@skanemills.com)>, Elizabeth Spaur <[espaur@skanemills.com](mailto:espaur@skanemills.com)>

**Cc:** Jane Hollingsworth <[jhollingsworth@ocgattorneys.com](mailto:jhollingsworth@ocgattorneys.com)>, Yesenia Lutes <[ylutes@skanemills.com](mailto:ylutes@skanemills.com)>, Allison Hardy <[AHardy@vegasvalleylaw.com](mailto:AHardy@vegasvalleylaw.com)>, Jennifer Reinhout <[jreynhout@vegasvalleylaw.com](mailto:jreynhout@vegasvalleylaw.com)>  
**Subject:** RE: Benton/Barconia adv. Walmart and Brosnan

That's fine on my end.

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\*\*Please be advised our firm's email addresses currently [mcorrick@ocgas.com](mailto:mcorrick@ocgas.com) will expire.

New email address: [mcorrick@ocgattorneys.com](mailto:mcorrick@ocgattorneys.com)

This email, including attachments, is intended for the person(s) or company named and may contain confidential and/or legally privileged information. Unauthorized disclosure, copying or use of this information may be unlawful and is prohibited. This email and any attachments are believed to be free of any virus or other defect that might affect any computer into which it is received and opened, and it is the responsibility of the recipient to ensure it is virus free, and no responsibility is accepted by Olson Cannon & Gormley for any loss or damage arising in any way from its use. If you have received this communication in error, please immediately notify the sender at 702-384-4012, or by electronic email.

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**From:** Kris T. Zeppenfeld, Esq. <[kz@vegasvalleylaw.com](mailto:kz@vegasvalleylaw.com)>  
**Sent:** Monday, November 25, 2024 12:01 PM  
**To:** Max Corrick <[mcorrick@ocgattorneys.com](mailto:mcorrick@ocgattorneys.com)>; Max Corrick <[mcorrick@ocgattorneys.com](mailto:mcorrick@ocgattorneys.com)>; Sarai L. Thornton <[sthornton@skanemills.com](mailto:sthornton@skanemills.com)>; Elizabeth Spaur <[espauro@skanemills.com](mailto:espauro@skanemills.com)>  
**Cc:** Jane Hollingsworth <[jhollingsworth@ocgattorneys.com](mailto:jhollingsworth@ocgattorneys.com)>; Yesenia Lutes <[ylutes@skanemills.com](mailto:ylutes@skanemills.com)>; Allison Hardy <[AHardy@vegasvalleylaw.com](mailto:AHardy@vegasvalleylaw.com)>; Jennifer Reinhout <[jreynhout@vegasvalleylaw.com](mailto:jreynhout@vegasvalleylaw.com)>  
**Subject:** Benton/Barconia adv. Walmart and Brosnan  
**Importance:** High

Counsel,

We have expert disclosures due on December 2<sup>nd</sup> in the above matter. I have been informed that the assailant is set for sentencing on December 4<sup>th</sup>. Are you agreeable to kicking out discovery/expert dates another 30 days? Happy to discuss. I am reachable throughout the week.



Kris

<image001.png>

**Vegas Valley Injury Law**  
**Kris T. Zeppenfeld, Esq.**  
**Executive Shareholder**

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<SAO to Extend Disco (5th Request).docx>